

1999
FORM BA-402
ALLOCATION & APPORTIONMENT SCHEDULE INSTRUCTIONS
(Replaces Form CO-412 and Form BI-474)

**For All Entities Having Activity (losses or income) in Vermont
& At Least One Other State/Province**

DO NOT COMPLETE IF YOUR BUSINESS ACTIVITY IS TOTALLY VERMONT

**** RETURNS AND PAYMENTS CANNOT BE PROCESSED WITHOUT THE VBA# ****

PLEASE USE BLUE OR BLACK INK. ENTER YOUR BUSINESS NAME AND VERMONT BUSINESS ACCOUNT NUMBER (VBA#).

Regulation § 1.5833-1 Allocation and Apportionment of Income became effective for tax years beginning on or after January 1, 1998. A copy of this regulation is available at the Department of Taxes' web site address: <http://www.state.vt.us/tax>

If the income of a taxable entity is derived from any trade, business, or activity conducted entirely within Vermont, the net income shall be apportioned to Vermont in full. Vermont uses a three-factor formula to apportion the income of entities operating in more than one state. Vermont net income is the entity's total income multiplied by the arithmetic average of these three percentages:

- 1) The **gross sales or charges for services** performed within Vermont vs. such sales Everywhere (within and without Vermont); and
- 2) The total **wages, salaries or personal service compensation** paid during the taxable year vs. employees or agents within Vermont to such payments Everywhere (within and without Vermont); and,
- 3) The average value of **real and tangible property** owned or rented within Vermont vs. such property Everywhere (within and without Vermont).

The **Everywhere** figures include amounts for sales, wages, and property *outside* of Vermont as well as *within* Vermont. Entities filing apportioned consolidated Vermont returns use the combined figures of the Vermont affiliated group. Enclose a schedule showing the sales, wages and property in Vermont and Everywhere for each affiliate. Summarize the affiliated group by submitting a **Schedule BA-410 Vermont Affiliation Schedule**.

PART 1 VERMONT DIRECTLY ALLOCATED NON-BUSINESS INCOME

All items of **non-business income** (income which is not included in the apportioned tax base) are allocated directly to the state in which the income-producing assets are located. If the income-producing asset has no situs (location), the income will be allocated to the state of commercial domicile, the principle place from which the business is directed or managed.

Line 1 Enter Everywhere figures in the left column 1a. and Vermont figures in the right column 1b. This amount will be used on forms CO-411, BI-472, or BI-473.

PART 2 APPORTIONMENT FACTORS

Complete Sections A, B, and C. Enter Everywhere figures in the left columns and Vermont figures in the right columns. Compute the Vermont apportioned percentage at lines 12, 13 and 21 by dividing the Vermont total by the Everywhere total. Carry out the percentage six decimal places. Enter the percentages on lines 12c, 13c and 21c. The three percentage are totaled and arithmetically averaged in Section D.

SECTION A: Apportioned Income Sales and Receipts Factor

Line 2: Enter the total business receipts for the year. For filers of Federal Form 1065, refer to Line 1c plus the **GROSS RECEIPTS COMPONENTS** of lines 4 through 7. The taxpayer may need to refer to various other Federal forms or schedules to obtain the gross components of business receipts. For example, since Line 5 of Federal Form 1065 provides a net amount, the taxpayer must refer to Federal Form 1040, Schedule F, Line 11 for the **GROSS** amount for the purpose of this factor.

Line 3: Enter the total of all receipts from services performed in Vermont. A service is considered performed in the state where the portion of the income producing activity performed in Vermont, measured by cost, is greater than the portion performed in any other state. (Vermont apportionment factor of line 2 above).

Line 4: Enter the sales of tangible personal property shipped or delivered to Vermont from *outside* Vermont, except when the purchaser is the United States Government.

Line 5: Enter the sales of tangible personal property shipped or delivered to Vermont from *within* Vermont, except when the purchaser is the United States Government. Also use this line for **sales of real property** included in line 1 if the property is in Vermont.

Line 6: Enter the sales of tangible personal property shipped *from Vermont to the United States Government*. These are “throwback” sales. (Vermont apportionment factor of line 2 above).

Line 7: Enter the sales of tangible personal property shipped *from Vermont to purchasers in a state where the entity is not taxable I.E. does not have nexus*. These are “throwback” sales. (Vermont apportionment factor of line 2 above).

Line 8: Enter receipts from business interest. Business interest is interest earned on business receivables. Business income is allocated to Vermont if the receivable resulted from a Vermont sale or from a receivable that is managed from a Vermont office. Interest on investment is not business interest and is not used in the apportionment formula.

Line 9: Enter receipts from royalties as reported by filers of Federal Form 1120S or 1065, Schedule K, Line 4c or Federal Form 1120/1120-A, Line 7. Royalties are allocated to Vermont if they are for the use of patents or copyrights in Vermont.

Line 10: Enter the total gross rental receipts for the year as reported by filers of Federal Form 1120S or 1065, Schedule K, Line 3a and Federal Form 8825, Line 2 or Federal Form 1120/1120-A, Line 6.

Line 11: Enter other income (loss) as reported by filers of Federal Form 1120S, Line 5 or Federal Form 1065, Line 7 or Federal Form 1120/1120-A, Line 10. Include taxable income from Vermont sources earned as a shareholder or partner and reported on Federal Schedule K-1, i.e., from income-producing assets and activity located in Vermont.

Line 12: Total sales and gross receipts. Add lines 2-11 and enter the Everywhere and Vermont values in lines 12a and 12b respectively. Calculate the Vermont apportionment percentage for sales and gross receipts by dividing line 12b by line 12a. Carry this percentage six (6) characters beyond the decimal point and enter on line 12c.

SECTION B: Salaries and Wages Factor

Line 13: Enter the salaries and wages paid or accrued during the taxable year for Everywhere and for Vermont in lines 13a and 13b respectively. Salaries and wages are allocated to Vermont if they were paid for services performed in the state. Payments to employees for board, rent housing, lodging, and any other benefits paid in exchange for labor will be treated as compensation if they are considered as income under the Internal Revenue Code. The entity may allocate based on the office or business location with which the employee is associated unless this method fails to properly reflect the business conducted in Vermont. To the extent that employee services produce both business and non-business income, pro-rata is allowed. Calculate the Vermont apportionment percentage for salaries and wages by dividing line 13b by line 13a. Carry this percentage six (6) characters beyond the decimal point and enter in line 13c.

SECTION C: Property Factor

Lines 14-18: Use the **average** of the beginning and ending values based on the **original** cost.

DO NOT INCLUDE INTANGIBLE PROPERTY IN THIS FACTOR. **Tangible**

personal property is within Vermont if, and so long as, it is physically situated or located here. Property of the taxpayer held in Vermont by an agent, consignee, or factor is (and property held outside Vermont by an agent, consignee, or factor is not) situated or located within Vermont. **Property in transit** between locations of the taxpayer to which it belongs shall be considered to be at the destination for purposes of the property factor.

Property in transit between a buyer and seller which is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices shall be included in the numerator according to the state of destination. The value of **mobile or movable property** such as construction equipment, trucks, or leased electronic equipment which are located within and without this state during the tax period shall be determined for purposes of the numerator of the factor on the basis of total time within the state during the tax period. **Construction in progress** will not be included in this factor until the asset constructed is placed in service.

Line 19: Subtotal of Owned Property Add lines 14 - 18.

Line 20: The value of the **rented or leased real or personal property** both within and without Vermont is determined by multiplying the **gross** rent payable during the tax year by a factor of eight (8). The gross rent to be used includes all money or other considerations payable directly or indirectly for the use and possession of the property and includes payments measured as a percentage of profits, payments in addition to or in lieu of rent for interest, taxes, insurance, repairs or other amounts paid on behalf of the lessor which may be required by the lease.

Line 21: Total property values Add lines 19 and 20 and enter the Everywhere values (left column) and the Vermont values (right column) in lines 21a and 21b respectively. Calculate the Vermont apportionment percentage for property by dividing line 21b by 21a. Carry this percentage six (6) characters beyond the decimal point and enter the resultant percentage in line 21c.

SECTION D: Vermont Apportionment Percentage

The Vermont apportionment percentage is the numerical average of the sales factor, the wages factor and the property factor. If a factor does not exist, i.e., line 12a, 13a, or 21a is zero, the remaining two factors are totaled and divided by two. If two factors are zero, the remaining factor is the Vermont apportionment percentage. If line 12b, 13b or 21b is zero, but there is a non-zero amount in the corresponding everywhere line, the factor exists. The factor 0.000000% should be included with the other factors to determine the Vermont apportionment percentage.

Line 22: Total of the three percentages Add lines 12c, 13c, and 21c. Enter the results.

Line 23: Vermont Apportionment Percentage Divide line 22 by 3 (except as noted above). Enter the results here and, as applicable: Form CO-411, Line 6; Form BI-472, Line 7; or Form BI-473, Line 12.

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